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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,911	01/02/2001	Yoshifusa Hayama	5905.0034-01	7998

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EXAMINER

JANKUS, ALMIS R

ART UNIT

PAPER NUMBER

2671

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,911

Applicant(s)

HAYAMA ET AL

Examiner

Almis R Jankus

Art Unit

2671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 08/965008.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Claims 21-~~3~~6 are presented for examination.

2. Claims 21-36 of this application conflict with claims 21-36 of Application No. 09/841242. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 24, 29, 30, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 24 and 29 recite the limitation "the player's". There is insufficient antecedent basis for this limitation in the claim.

Claims 30 and 34 are rejected based on their dependency from claim 29.

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The abstract of the disclosure is objected to because it is not limited to a single paragraph and contains the form and legal phraseology used in patent claims. Correction is required. See MPEP § 608.01(b).

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 21-30 and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Strandberg.

With respect to claim 21, Strandberg teaches the claimed presentation control means for controlling the presentation of an image containing said object which changes in shape, at figure 1, at the abstract, and the object changing in shape, at column 5 lines 60-67; viewpoint determining means for determining the position of a viewpoint for capturing an image containing said object by means of said presentation control means, at column 11 line 32 to column 12 line 5; and recording means for recording an image obtained from the viewpoint determined by said viewpoint determining means, at column 8 lines 7-9.

Claim 22 further requires the presentation control means to change the shape of said object on the basis of data obtained by capturing the movement of each part of an object moving in a real space. Strandberg teaches this at column 4 lines 7-15.

Claim 23 further requires said presentation control means to use texture data obtained by scanning a portion of said object by means of a three-dimensional scanner

as texture data for a portion of said object. The instant specification defines texture data as "representing red (R), green (G), and blue B lights". These are merely the the three color components used in color displays. Strandberg teaches using and changing colors at column 3 line 59 to column 4 line 4.

Claim 24 further requires said presentation control means to select, on the basis of the player's operations, the shape of said object, the pattern of change in this object, the type of texture data applied to this object, or the type of sound emitted when said object changes shape. Strandberg teaches this at figures 2-8, with sound being taught at column 5 line 37 to column 6 line 7.

Claim 25 further requires said presentation control means to display at least one other object which is different to said object, and changes the shape of this other object also. Strandberg teaches this at column 6 lines 31-54; for example, shadows.

Claim 26 further requires said presentation control means to conduct a presentation wherein prescribed illumination is provided in accordance with changes in the shape of said object; and claim 27 further requires said presentation control means to conduct a presentation wherein a prescribed image pattern appears in a position corresponding to the foreground or background of said object, in accordance with the change in the shape of said object. Strandberg teaches these features at column 6 lines 31-54.

Claim 28 further requires said recording means to pause recording of said image on the basis of the player's operations, and said presentation control means to change the presentation of this image whilst the recording of the image is paused by said recording means. Strandberg teaches this at column 7 line 62 to column 8 line 20.

Claim 29 further requires said viewpoint determining means to change the relative position information of said viewpoint to said object on the basis of the player's operations. Strandberg teaches this at column 6 lines 18-26.

Claim 30 further requires said recording means to pause recording of said image on the basis of the player's operations, and said presentation control means to change the presentation of this image whilst the recording of the image is paused by said recording means. Strandberg teaches this at column 7 line 62 to column 8 line 20.

Claim 34 further requires said virtual space to have an inhibited area in which said viewpoint can not be located, and said viewpoint determining means changes said viewpoint position information out of said inhibited area. Strandberg teaches this at column 4 lines 59-65 with the teaching of the limit value.

Claim 35 is similar to claim 21, however, is presented in method form. The arguments applied to the rejection of claim 21, above, apply to claim 35 as well because the method steps of claim 35 are inherent in the apparatus functions of claim 21.

Claim 36 further requires implementations in a computer to be recorded. Strandberg teaches this at column 8 lines 7-9.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strandberg as applied to claim 21 above, and further in view of Tsuga et al.

Claims 31-33 are specifically directed to the recording means portion of the image processing device. While Strandberg teaches this recording means at figure 1 item 12 and at column 10 lines 48-63, it is noted that the various claimed functions of the recording means are not explicitly taught. However, it was well known that recording means provided the functions claimed. Tsuga et al. Is applied as a reference to show that the claimed functions were known and used on recording means as claimed.

Claims 32 and 33 further require said recording means to reproduce a recorded series of images at a different speed (claim 32), and in a different sequence (claim 33), to that used when recording these images. According to the instant specification, these limitations are defines as "fast-forward" and "rewind". Tsuga et al. Teaches these features at column 27 line 3.

Claim 31 further requires said recording means to reproduce a recorded series of images at the same speed as that used when recording these images. This is inherent in the recorder of Tsuga et al. Replay provides the recorded speed by default. This is clearly indicated with the teaching of a "fast forward" because "fast forward" is a speed other than the default normal speed, which normal speed has always been standard.

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It would have been obvious to one of ordinary skill in the art to include well known features, such as normal speed, fast forward, and rewind, of recording devices because one could move forward and backward in a given recording at a fast speed to save time, and to use normal speed for enjoyment.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Almis R Jankus whose telephone number is 703-305-9795. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman can be reached on 703-305-9798. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-6606 for regular communications and 703-308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

AJ
March 23, 2003


ALMIS R. JANKUS
PRIMARY EXAMINER